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REMARKS

Claims 1-31 are currently pending in the subject application and are presently under consideration. Claims 1-3, 16, 17, 19-25 and 27 have been amended. A listing of all claims is at pages 2-7.

Applicant's representative respectfully submits that a rejection based solely on 35 U.S.C. §101 is improper. When an Examiner asserts that a claim(s) falls into a non-statutory category "that should not preclude complete examination of the application for satisfaction of all other conditions of patentability." See MPEP §2106, IV, B. The Examiner must analyze the claimed invention under all the statutory provisions, including 35 U.S.C. 101, 112, 102 and 103. "Only then should any rejection be imposed in an Office action. The Office action should clearly communicate the findings, conclusions and reasons which support them." See MPEP §2106, VII. Accordingly, it is requested that the Examiner issue a new non-final Office action addressing any and all rejections under 35 U.S.C. 101, 112, 102 and 103, if applicable.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-31 Under 35 U.S.C. §101

Claims 1-31 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. It is respectfully submitted that this rejection is improper for at least the following reasons. The subject claims are clearly directed to statutory subject matter pursuant to the legal standard set forth by the Federal Circuit.

Because the claimed process applies the Boolean principle *to produce a useful, concrete, tangible result* ... on its face the claimed process comfortably falls within the scope of §101. *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358 (Fed.Cir. 1999). The inquiry into patentability requires an examination of the contested claims to see if the claimed subject matter, as a whole, is a disembodied mathematical concept representing nothing more than a "law of nature" or an "abstract idea," or if the mathematical concept has been *reduced to some practical application rendering it "useful."* *AT&T* at 1357 citing

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In re Alappat, 33 F.3d 1526, 31 1544, 31 U.S.P.Q.2D (BNA) 1545, 1557 (Fed. Cir. 1994).

The present invention provides a novel solution to serve up HTML pages at a relatively quick rate *via* systems and methods that dynamically generate changing pages. In particular, independent claim 1 recites a computer implemented system *receiving* and *servicing a client request*, *executing* code, *retrieving* a text constant, *inserting* at least one variable argument, and *passing* the result *to the client*. Independent claim 16 recites a computer implemented system *servicing a request*, *defining* code and text constants, *assigning* identifiers, *providing* at least one string template page and executable code and *transmitting* the result *to the client*.

Moreover, independent claim 19 recites a computer implemented method *servicing* and *receiving a client request*, *providing* at least one string template page, *assigning* and *utilizing* an identifier, *parsing*, *storing* and *retrieving* at least one text constant, *retrieving* at least one text string constant, *aggregating* and *returning* a document *to the client*. Independent claim 27 recites a *computer readable medium* having computer executable components to *receive a client request* and pass a file to the client.

The Examiner asserts claims 1-31 are directed to non-statutory subject matter because the claimed subject matter "is a functional descriptive material (Data structure per se or computer program per se) ... fails to specify pre-computer or post-computer activity ... merely manipulates [an] abstract idea without any limitation to practical application ... fails to claim the medium on which the computer program is performed." (See Office Action p. 2). However, this does not meet the standard proffered in *AT&T*, namely, the inquiry requires a determination if the claimed invention, *as a whole*, is *applied in a practical application to produce a useful, concrete and tangible result*. (*AT&T Corp., v. Excel Communications, Inc.*, 172 F.3d 1352; 1357, 1999 U.S. App. LEXIS 7221, 15-16; 50 U.S.P.Q.2D (BNA) 1447 citing *In re Alappat*, 33 F.3d 1526, 31 U.S.P.Q.2D (BNA) 1545 (Fed. Cir. 1994)).

Independent claim 1 recites physical acts performed by a computer, *e.g.* servicing, receiving, executing, retrieving, inserting and passing. These physical acts are performed on non-abstract ideas, *e.g.* a request, a text constant, a variable argument, and a result. The physical acts performed on non-abstract ideas produce a concrete, tangible and useful result, namely,

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passing the result to the client to satisfy the client's request. In addition, since the computer is implementing the acts, the medium is inherently computer readable medium.

The computer implemented method of independent claim 16 is performed through numerous physical acts on non-abstract ideas. Specifically, the physical acts performed by the computer include servicing, defining, assigning, providing and transmitting. The non-abstract ideas include a request, a code, text constants, identifiers, at least one string template page, executable code and a response. The result of these physical acts on non-abstract ideas is tangible, concrete, and useful because it is responsive to the client's request as applied in practical application, *i.e.* usage of a computer.

Independent claim 19 produces a concrete, tangible and useful result. The computer implemented method, *via* computer readable medium, services a client request through physical acts, namely, providing, assigning, parsing, retaining, storing, receiving, retrieving, utilizing, aggregating and returning. These physical acts are performed on at least one string template page, an identifier, at least one text constant, a request, at least one text string constant, and a document, which are non-abstract ideas. The document returned to the client is a concrete, tangible and useful result and is applied in a practical application, *i.e.* using a computer to retrieve documents.

Independent claim 27 recites a computer readable medium having computer-executable components that receive a client request ... and insert at least one text constant into a file and pass the file to a client. A computer readable medium is a physical thing and, accordingly, is patentable subject matter *e.g.*, a product of manufacture and not an abstract idea.

In addition, the specification provides various examples of practical application. For example, the specification discloses that the invention provides separation of the constant text and the code embedded in HTML documents to generate dynamically changing HTML documents at a relatively quick rate in response to a client request. (*See* pg. 4, ln. 7-10). In another example, the specification discloses:

A system and method is provided for supplying requested HTML pages at a relatively quick rate using limited resources. The present invention provides a solution to efficiently, clearly, and straightforwardly supply text constants to code running in a server

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environment and using them to generate dynamically changing pages.

(Application, page 2, lines 13-16).

In view of the foregoing, it is readily apparent that the subject claims and specification expressly provide at least one practical application that renders a useful, concrete, and tangible result. Moreover, since the computer is implementing the systems and methods, the medium on which the methods and systems are performed is a computer readable medium.

Accordingly, this rejection of independent claims 1, 16, 19 and 27 (and claims 2-15, 17-18, 20-26 and 28-31 which depend there from) should be withdrawn.

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CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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